

In RE:

Mi Ja Park aka Mija Park aka Mi Park aka Mi J Park

Debtor

and Joong Don Park Co-Debtor

Address: 3850 Farr Oak Circle

Fairfax, VA 22030

Last four digits of Social Security No.(s):

BCN #: 17-11124-BFK

Chapter: 13

Notice of Motion

Wells Fargo Bank, N.A. has filed papers with the court to request an order granting *in rem* relief from the Automatic Stay and Co-Debtor Stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the Motion, or if you want the court to consider your views on the Motion, then on or before May 11, 2017, twenty-one days hence, you or your attorney must:

- File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
200 South Washington Street
Alexandria, VA 22314

You must also mail a copy to:

Shapiro & Brown, LLP
10021 Balls Ford Road, Suite 200
Manassas, Virginia 20109
(703) 449-5800

- Attend the hearing on the motion or objection scheduled to be held on May 31, 2017 at the United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314 in Courtroom III at 9:30 AM.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

15-248609

Dated: April 20, 2017

Shapiro & Brown, LLP
Attorneys for Wells Fargo Bank, N.A.

By: /s/ R.A. Hurley

Lindsey C. Kelly, Esquire, VSB #71314
Gregory N. Britto, Esquire, VSB #23476
Daniel Eisenhauer, Esquire, VSB #85242
R.A. Hurley, Esquire, VSB #78616
William M. Savage, Esquire, VSB #06335
Malcolm B. Savage, III, Esquire, VSB #91050

Shapiro & Brown, LLP
10021 Balls Ford Road, Suite 200
Manassas, Virginia 20109
(703) 449-5800

Certificate of Service

I certify that I have this 20th day of April, 2017, electronically transmitted and/or mailed by first class mail, postage pre-paid, a true copy of the foregoing Notice of Motion to the following:

WEON GEUN KIM
8200 GREENSBORO DR., STE. 900
MCLEAN, VA 22102

Thomas P. Gorman
300 N. Washington St. Ste. 400
Alexandria, VA 22314

Mi Ja Park
3850 Farr Oak Circle
Fairfax, VA 22030

Joong Don Park
3850 Farr Oak Circle
Fairfax, VA 22030

/s/ R.A. Hurley

Lindsey C. Kelly, Esquire, VSB #71314
Gregory N. Britto, Esquire, VSB #23476
Daniel Eisenhauer, Esquire, VSB #85242
R.A. Hurley, Esquire, VSB #78616
William M. Savage, Esquire, VSB #06335
Malcolm B. Savage, III, Esquire, VSB #91050

United States Bankruptcy Court
Eastern District of Virginia
Alexandria Division

In RE:
Mi Ja Park a/k/a Mija Park a/k/a Mi Park
a/k/a Mi J Park
Debtor

BCN#: 17-11124-BFK
Chapter: 13

Wells Fargo Bank, N.A.
or present noteholder,

Movant/Secured Creditor,

v.

Mi Ja Park a/k/a Mija Park a/k/a Mi Park a/k/a
Mi J Park

Debtor

Joong Don Park

Codebtor

and

Thomas P. Gorman

Trustee

Respondents

Motion for Order Granting *In Rem* Relief
From Automatic Stay and Co-Debtor Stay
for Bad Faith in Filing for Injunction
Preventing Subsequent Filings as to Movant
and Notice of Motion and Hearing

COMES NOW, Wells Fargo Bank, N.A., its assignees and/or successors in interest, (hereinafter “the Movant”), by counsel, and moves the Court for an Order Granting *In Rem* Relief from the automatic stay of 11 U.S.C. § 362 (a), and in support thereof states as follows:

1) The bankruptcy court has jurisdiction over this contested matter pursuant to 28 U.S.C. § 157 and § 1334; 11 U.S.C. § 362; Federal Rule of Bankruptcy Procedure 9014 and; 11 U.S.C. § 1301(a). This matter is a core proceeding.

2) The above named Debtor filed a Chapter 13 Petition in Bankruptcy with this Court on April 4, 2017.

3) Thomas P. Gorman has been appointed by this Court as the Chapter 13 Trustee in this instant Bankruptcy proceeding.

4) Movant is the current payee of a promissory note secured by a deed of trust upon a parcel of real property (hereinafter “the Property”) with the address of 3850 Farr Oak Circle, Fairfax, VA 22030 and more particularly described in the Deed of Trust dated August 13, 2004 and recorded as Deed Book 16425, Page 2072 among the land records of the said city/county, as:

Lot 80, Section 2, FARRCROFT, as the same appears duly dedicated, platted and recorded in Deed book 10983 at page 939, among the Land Records of Fairfax County, Virginia

(Copies of Deed of Trust and Note are attached hereto marked as Exhibit "A" and "B" and made a part hereof by reference).

5) Movant is informed and believes, and, based upon such information and belief, alleges that title to the subject Property is currently vested in the name of the Debtor and the Co-Debtor.

6) Movant has elected to initiate foreclosure proceedings on the Property with respect to the deed of trust, but is prevented by the Automatic Stay from going forward with these proceedings.

7) The instant Bankruptcy petition was filed in bad faith and solely to delay Movant's efforts to foreclose on its security interest in the above described property. In support thereof, Movant further states that the Debtor has filed the following bankruptcy petitions with the following results:

- a.) Chapter 13 bankruptcy filed August 1, 2013 in the Eastern District of Virginia (Alexandria)
Case number: 13-13572-BFK
Filed by Mi Ja Park
Foreclosure Scheduled: August 1, 2013
Total Debt: \$797,428.13
Result: Dismissed for Failure to File Information 08/22/2013.
- b.) Chapter 13 bankruptcy filed November 17, 2015 in the Eastern District of Virginia (Alexandria)
Case number: 15-14064-RGM
Filed by Mi Ja Park
Foreclosure Scheduled: November 18, 2015
Total Debt: \$871,244.89
Result: Dismissed for Other Reason 03/10/2016.

- c.) Chapter 13 bankruptcy filed April 26, 2016 in the Eastern District of Virginia (Alexandria)

Case number: 16-11481-RGM

Filed by Joong Don Park aka Joong D. Park

Foreclosure Scheduled: April 27, 2016

Total Debt: \$882,953.91

Result: Dismissed for failure to make plan payments 06/27/2016.

- d.) Chapter 13 filed April 4, 2017 in the Eastern District of Virginia (Alexandria)

Case number: 17-11124-BFK

Filed by Mi Ja Park aka Mija Park aka Mi Park aka Mi J Park

Foreclosure Scheduled: April 5, 2017

Total Debt: \$914,473.66

Result: Open and Pending

8) The series of four (4) bankruptcy filings indicate lack of “good faith” on the part of Debtor, constitutes a substantial abuse of the Bankruptcy Code, and is cause to grant the relief prayed for in the instant bankruptcy case.

9) The Debtor's pattern of successive bankruptcy filings indicates “bad faith” and an attempt to forestall any foreclosure actions undertaken by Movant. In the Debtors first bankruptcy, a chapter 13, was dismissed for failure to file information on 08/22/2013. The Debtors second bankruptcy, a chapter 13, was dismissed for other reasons on 03/10/2016. The Debtors third bankruptcy, a chapter 13, was dismissed for failure to make plan payments on 06/27/2016.

10) That the Debtor is in default with regard to payments which have become due under the terms of the aforementioned note and deed of trust. The Debtor is contractually due for March 16, 2009.

As of April 11, 2017, the Debtor is contractually due for:

- o 13 contractual payments, from March 16, 2009 – August 31, 2009, of \$1,732.72 each which were to be paid directly to Movant;

- o 26 contractual payments, from September 14, 2009 – August 30, 2010, of \$1,835.67 each which were to be paid directly to Movant;
- o 26 contractual payments, from September 13, 2010 – August 29, 2011, of \$1,946.34 each which were to be paid directly to Movant;
- o 26 contractual payments, from September 12, 2011 – August 27, 2012, of \$2,060.36 each which were to be paid directly to Movant;
- o 24 contractual payment, from September 10, 2012 – July 29, 2013, of \$2,070.61 each which were to be paid directly to Movant;
- o 2 contractual payments, from August 12, 2013 – August 26, 2013, of \$2,185.25 each which were to be paid directly to Movant;
- o 26 contractual payments, from September 9, 2013 – August 25, 2014, of \$2,165.26 each which were to be paid directly to Movant;
- o 6 contractual payment, from September 8, 2014 – November 17, 2014, of \$2,157.17 each which were to be paid directly to Movant;
- o 20 contractual payments, from December 1, 2014 – August 24, 2015, of \$2,173.24 each which were to be paid directly to Movant;
- o 7 contractual payments, from September 7, 2015 – November 30, 2015 of \$2,169.25 each which were to be paid directly to Movant;
- o 10 contractual payment, from December 14, 2015 – April 18, 2016, of \$2,201.19 each which were to be paid directly to Movant;
- o 9 contractual payments, from May 2, 2016 – August 22, 2016, of \$2,201.11 each which were to be paid directly to Movant;
- o 15 contractual payments, from September 5, 2016 – March 20, 2017 of \$2,225.17 each which were to be paid directly to Movant;
- o 1 contractual payment, for April 3, 2017, of \$2,228.82 which was to be paid directly to Movant;
- o Total of \$433,809.71

11) As of April 11, 2017, the unpaid principal balance on the said note is \$618,500.83.

12) That as of April 11, 2017, the total amount of indebtedness owed by the Debtor (not to be relied upon as the payoff) to the movant is approximately \$918,508.53.

13) That the value of the Property is \$947,100 based on the county's tax assessed value of the Property as of April 12, 2017.

14) Movant is informed and believes, and, based upon such information and belief, alleges that absent the Court's Order allowing the Movant to proceed with the pending foreclosure, Movant's security will be significantly jeopardized and/or destroyed.

15) Continuation of the automatic stay of 11 U.S.C. § 362(a) will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362 due to the aforementioned facts.

16) Movant requests that the Court hear this matter on May 31, 2017 at 9:30 AM.

Wherefore, the Debtor having forsaken the legitimate use of the bankruptcy process, the Movant prays that the court enter in an order granting In Rem Relief from the Automatic Stay of 11 USC § 362(a), and ordering that a subsequent filing by the Debtor or any party to which he/she may transfer the property, will not create a stay as to the property and will be ineffective as to the Movant and its assigns and/or successors. Movant further requests that the 14-day waiting period imposed by F.R.B.P. 4001(a)(3) be waived, and further ordering that the Movant may proceed to perform any and all acts necessary in order to obtain lawful possession of the property subsequent to any foreclosure sale. Movant further requests attorneys' fees and costs, and such further relief as the Court and equity deem justifiable.

Dated: April 20, 2017

Shapiro & Brown, LLP
Attorneys for Movant

By: /s/ R.A. Hurley

Lindsey C. Kelly, Esquire, VSB #71314
Gregory N. Britto, Esquire, VSB #23476
Daniel Eisenhauer, Esquire, VSB #85242
R.A. Hurley, Esquire, VSB #78616
William M. Savage, Esquire, VSB #06335
Malcolm B. Savage, III, Esquire, VSB #91050
Shapiro & Brown, LLP
501 Independence Parkway, Suite 203
Chesapeake, Virginia 23320
(757) 687-8777 15-248609

United States Bankruptcy Court
Eastern District of Virginia
Alexandria Division

In RE:

Mi Ja Park a/k/a Mija Park a/k/a Mi Park
a/k/a Mi J Park
Debtor

BCN#: 17-11124-BFK

Chapter: 13

Wells Fargo Bank, N.A.
or present noteholder,
Movant/Secured Creditor,

v.

Mi Ja Park a/k/a Mija Park a/k/a Mi Park a/k/a
Mi J Park
Debtor
Joong Don Park
Codebtor

and

Thomas P. Gorman
Trustee
Respondents

Notice of Motion and Hearing

Please take notice:

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not wish the Court to grant the relief sought in this motion, or if you want the Court to consider your views on this motion, then within fourteen (14) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314, and serve a copy on the Movant. Unless a written response is filed and served within this fourteen day period, the Court may deem any opposition waived, treat the motion as conceded, and issue an Order granting the requested relief.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the fourteen day period.

A copy of any written response must be mailed to the following persons:

Lindsey C. Kelly, Esquire VSB #71314
Gregory N. Britto, Esquire VSB #23476
Daniel Eisenhauer, Esquire VSB #85242
R.A. Hurley, Esquire VSB #78616
William M. Savage, Esquire VSB #06335
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(757) 687-8777 15-248609

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William M. Savage, Esquire
Malcolm B. Savage, III, Esquire
Law Offices of
Shapiro & Brown, LLP
501 Independence Parkway, Suite 203
Chesapeake, Virginia 23320

WEON GEUN KIM
8200 GREENSBORO DR., STE. 900
MCLEAN, VA 22102

Thomas P. Gorman
300 N. Washington St. Ste. 400
Alexandria, VA 22314

Mi Ja Park
3850 Farr Oak Circle
Fairfax, VA 22030

Joong Don Park
3850 Farr Oak Circle
Fairfax, VA 22030

United States Trustee, Region 4
115 South Union Street, Suite 210
Alexandria, Virginia 22314

In order to oppose this motion, you must also attend the preliminary hearing scheduled to be held on: May 31, 2017 at 9:30 AM in Courtroom III, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an Order granting the requested relief.

Dated: April 20, 2017

Shapiro & Brown, LLP
Attorneys for the Movant

/s/ R.A. Hurley

BY: Lindsey C. Kelly, Esquire, VSB #71314

Gregory N. Britto, Esquire, VSB #23476

Daniel Eisenhower, Esquire, VSB #85242

R.A. Hurley, Esquire, VSB #78616

William M. Savage, Esquire, VSB #06335

Malcolm B. Savage, III, Esquire, VSB #91050

Shapiro & Brown, LLP

501 Independence Parkway, Suite 203

Chesapeake, Virginia 23320

(757) 687-8777 15-248609

Counsel for Wells Fargo Bank, N.A.

Certificate of Service

I certify that I have this 20th day of April, 2017, electronically transmitted and/or mailed by first class mail, postage pre-paid, true copies of the above mentioned Motion for Order Granting Relief From Automatic Stay and Co-Debtor Stay for Bad Faith in Filing for Injunction Preventing Subsequent Filings as to Movant and Notice of Motion and Hearing to each party required to receive notice under Local Bankruptcy Rule 4001(a)-1(F)(1) as follows:

WEON GEUN KIM
8200 GREENSBORO DR., STE. 900
MCLEAN, VA 22102

Thomas P. Gorman
300 N. Washington St. Ste. 400
Alexandria, VA 22314

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William M. Savage, Esquire, VSB #06335
Malcolm B. Savage, III, Esquire, VSB #91050

15-248609

Notice: Time for response to the Motion is twenty-one (21) days from the date of service

Notice to Co-Debtor

If you do not file a written response by the deadline shown, the law provides that the automatic stay protecting you from further legal action against you by this creditor will automatically terminate. [See 11 U.S.C. §1301(d)]

I certify that I have this 20th day of April, 2017, electronically transmitted and/or mailed by first class mail, postage pre-paid, true copies of the above Motion for Order Granting Relief from CoDebtor Stay and Notice of Motion and Hearing to each party required to receive notice under Local Bankruptcy Rule 4001(a)-1(F)(1) as follows:

WEON GEUN KIM
8200 GREENSBORO DR., STE. 900
MCLEAN, VA 22102

Thomas P. Gorman
300 N. Washington St. Ste. 400
Alexandria, VA 22314

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/s/ R.A. Hurley
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